

REMARKS

1. Claims Amendments.

Claims 1-5, 7-8, and 13 have been amended to specify that the invention is "An artists canvas". Support for this is found throughout the Specification as originally filed.

Claims 6 and 9-12 are cancelled.

Claim 14 has been amended to specify that the invention is "to form an artists canvas". Support for this is found throughout the Specification as originally filed.

Claims 15-17 have not been amended in this response.

Claim 18 is cancelled.

Claim 19 has been amended to specify that the coating is applied to a substrate for use "as an artists canvas" and that "when the coating is applied onto the substrate, the resultant coated canvas removably accepts watercolor paints and pencils." Support for this is found throughout the Specification as originally filed.

Claims 20-22 have not been amended in this response.

Claims 23-25 are cancelled.

No new matter has been added by any of these amendments.

2. 35 USC 112 Rejections

In view of the amendment to Claim 7 to depend from Claim 5, the rejection of Claim 7 under 35 USC 112 is now moot.

In view of the cancellation of Claim 25, the rejection of Claim 25 under 35 USC 112 is now moot.

3. 35 USC 102 Rejections

Claims 1, 3-5, 6-12, 14-17, 19-22, 24, and 25 continue to be or are rejected under 35 USC 102 as anticipated by US Patent No. 5629073 to Lovell (Lovell '073). In view of the claim amendments, Applicant submits that these rejections are moot. As several of the claims have been cancelled, the claims at issue are Claims 1, 3-5, 7-8, 14-17, and 19-22.

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim." *In re King*, 801 F2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). See also *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick*, 730 F2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Independent Claim 1 requires, in part, a coated substrate for accepting watercolor paints, a coating that has a formulation that accepts watercolor paints, and a formulation that allows for the removal of the watercolor paints by wetting the coating. Independent Claim 14 similarly requires, in part, a coating that is applied to a substrate to form an artists canvas, along with the elements mentioned above for Claim 1. Independent Claim 19 likewise requires, in part, a coating that is applied to a substrate for use as an artists canvas, along with the elements mentioned above for Claim 1. Lovell '073 discloses none of these elements.

Initially, Lovell '073 and the present invention are for entirely different types of coatings used for entirely different purposes. Lovell '073 discloses a medium temperature conductive-resistive article employing graphite suspended in a high temperature polymer based activator and water that can be applied to a fabric-like substrate in order to provide an electrical resistive temperature adjustable heating element which can alter the temperature of the fabric-like substrate when electrical current is permitted to flow through the conductive-resistive substance, and claims an electrical resistant temperature adjustable article neither having the features of Claims 1, 14, or 19 nor having the function or purpose of the present invention.

While the claimed features of the present invention provide for a painting surface that will accept and allow the removal of watercolors, these features are not disclosed or claimed anywhere in Lovell '073. In its simplest form, Lovell '073 discloses and claims an article of clothing having conductive strips through which electricity can pass to generate an electrical resistance temperature increase – similar to the "electric socks" that once were the rage for bringing to winter football games, for example. Lovell '073 does not disclose an artist canvas. Lovell '073 does not disclose a coated substrate for accepting watercolor paints. Lovell '073 does not disclose a coating that has a formulation that accepts watercolor paints. Lovell '073 does not disclose a formulation that allows for the removal of the watercolor paints by wetting the coating. As discussed

in previous response, not only is the formulation of Lovell '073 not identical to the present formula, it is not used on the same substrate, it does not serve the same purpose, it does not have the same function, and it does not disclose every element of the present independent claims. As such, Lovell '073 cannot function as an anticipatory reference under 35 USC 102.

4. 35 USC 103 Rejections

Claims 2, 13, and 18 continue to be or are rejected under 35 USC 103 as obvious in view of Lovell '073. In view of the claim amendments, Applicant submits that these rejections are moot. As Claim 18 has been cancelled, the claims at issue are Claims 2 and 13. however, this discussion also applies to the remainder of the claims.

Initially, only references from arts analogous to that of the claimed invention may comprise prior art to the invention. A reference will be analogous art if: 1) it is from the same field of endeavor as the claimed invention; or 2) it is from a different field of endeavor, but the reference is reasonably pertinent to the particular problem solved by the inventor. *In re Oetiker*, 977 F2d 1443, 1446-47 (Fed. Cir. 1992); *In re Clay*, 966 F2d 656, 658-89 (Fed. Cir. 1992). There is no way any examiner can honestly believe that electrically heated clothing and artists canvases are "from the same field of endeavor" or that electrically heated clothing "is reasonably pertinent to the particular problem solved" by a coated substrate allowing for the application and removal of watercolors on a canvas.

The question is not whether the differences between the prior art and claimed invention are obvious, but rather whether the claimed invention as a whole would have been obvious. *Jones v. Hardy*, 727 F2d 1524, 1529 (Fed. Cir. 1984). It is not only the differences in structure that are considered, but any property of the claimed invention as a whole can support a finding of non-obviousness. *Schenck v. Nortron Corp.*, 713 F2d 782, 785 (Fed. Cir. 1983). Even absent the examiner's acknowledgment that the substrate materials of the present invention and of Lovell '073 are not the same, the fundamental properties of the inventions are not even close to being the same. No one of any skill in either of the arts would consider using electrically heated clothing as the basis for creating a canvas for accepting watercolors and for allowing the removal of the

watercolors. Likewise, no one of any skill in either of the arts would consider using an artists canvas as the basis for creating electrically heated clothing. Nor would any reasonable examiner. Although the coatings of each invention may have one or more common components, the claimed invention as a whole, and the properties of the claimed invention as a whole, are not obvious in view of Lovell '073 under the applicable USPTO rules and the US Patent Laws.

The prior art must also be considered as a whole. *W.L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F2d 1540, 1550 (Fed. Cir. 1983), *cert. denied*, 469 US 851 (1984). "It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *Application of Wesslau*, 353 F2d 238, 241 (CCPA 1965); *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 796 F2d 443, 448 (Fed. Cir. 1986), *cert. denied*, 484 US 823 (1987). The examiner's limited reliance on the components of the Lovell '073 coating as an obviating reference does exactly this. The examiner has picked from the Lovell '073 reference only that part that allegedly will support the position that a coating with certain components will obviate another coating with some of the same certain components, to the exclusion of the other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Lovell '073 requires other parts to result in electrically heated clothing (wires, electricity, structure to prevent the clothing from catching on fire, etcetera) and the present invention requires other parts to result in an artists canvas as claimed (a formulation that accepts watercolors and allows for the removal of the watercolors by wetting the coating). As such, Lovell '073 cannot function as an obviating reference under 35 USC 103.

CONCLUSION

Applicant submits that the patent application is in proper condition for allowance, and respectfully requests such action. If the Examiner has any questions that can be resolved over the telephone, please contact the below signed attorney of record.

Respectfully submitted,
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